IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21579 of 2004

Between:

S. Achalu, S/o. Buchaiah,
R/o. Khammam.

..... PETITIONER

AND

1 The Superintending Engineer, O&M Circle,

Nagarjuna Sagar Left Canal,
Tekulapally-507 002, Khammam District.
2 The Executive Engineer, Nagarjuna Sagar

Left Canal, O&M Division,
Tekulapally-507 002, Khammam District.
3 The Dy. Exeuctive Engineer, Nagarjuna Sagar

Left Canal, O&M Sub-Division,
Nelakondapally, Khammam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Call for the records room the respondents and issue an appropriate Writ, Order or direction, particularly one in the nature of Writ of Mandamus, declaring that the order of termination passed by the 2nd respondent in proceedings NO.APSCC/ID/WP8831/89/640M dt. 27.5.2003 as illegal, unjust, contrary to law, in violation of Section 25-F and 25-G of the Industrial Disputes Act 1947 and Rule 79 of the A.P. Industrial Dispute Rules ;1958, arbitrary, discriminatory and violative of Articles 14, 16 and 21 of the Constitution of India, and grant all consequential benefits.

Counsel for the Petitioner:MR.A.K.JAYAPRAKASH RAO
Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following :

ORDER:

The present Writ Petition is filed challenging the proceedings of the Executive Engineer - Second Respondent dated 27-5-2003 in dispensing with the services of the Writ Petitioner with effect from 1-6-2003 by giving a notice period wages in lieu of one month time.

The learned Counsel for the petitioner vehemently contended that the impugned proceedings are completely in violation of Section 25F of the Industrial Disputes Act 1947 and therefore, it is liable to be set-aside.

On the other hand, the learned counsel for the respondents contended that the impugned proceedings are completely in accordance with the provision of Section 25F of Industrial Disputes Act and therefore, there are no grounds to interfere with the impugned proceedings.

As seen from the impugned proceedings, it is clear that it is not in accordance with Section 25 F of the Industrial Disputes Act,1947 which reads as follows:

Section-25F.Conditions precedent to retrenchment of workmen*: No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer*

Until---

a. *the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice,wages for the period of the notice.*

1(x x x)

b. *the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2(for every completed year of continuous service) or any part thereof in excess of six months ; and*

c. *notice in the prescribed manner is served on the appropriate Government 3(or such authority as may be specified by the appropriate Government by notification in the Official Gazette).*

Without following the procedure under Section 25 F of the Industrial Disputes Act, the services of the petitioner as Pump Operator are dispensed with effect from 1-6-2003. It is clearly in violation of statutory rights conferred to the employee workman. Therefore, the impugned proceedings have to be set-aside.

In the result, the impugned proceedings are set-aside. However, the disposal of the writ petition will not preclude the respondents in taking any action in accordance with law.

The Writ Petition is disposed of. No costs.

KCB,J

25-11-2004

Stp

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Superintending Engineer, O&M Circle,

Nagarjuna Sagar Left Canal,
Tekulapally-507 002, Khammam District.

2 The Executive Engineer, Nagarjuna Sagar

Left Canal, O&M Division,
Tekulapally-507 002, Khammam District.

3 The Deputy Executive Engineer, Nagarjuna Sagar

Left Canal, O&M Sub-Division,
Nelakondapally, Khammam District.

4 2CCs to GP for Irrigation and Commercial Area

Development, High Court of A.P., Hyderabad (OUT).

5 2CD copies

THE HON'BLE MR JUSTICE K.C. BHANU

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